

DOCKET NO.: 0010-1057-0

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

IN RE APPLICATION OF:

:

Yoshihiro USUDA, et al.

: GROUP ART UNIT: 1652

SERIAL NO.: 09/441,055

:

FILED: November 16, 1999

: EXAMINER: P. TUNG

FOR: METHOD FOR PRODUCING L-METHIONINE BY FERMENTATION

**RESPONSE TO RESTRICTION REQUIREMENT**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Responsive to the Official Action dated March 27, 2001, Applicants elect, with traverse, Group II, Claim 10, for further prosecution.

**REMARKS**

The Office has required restriction in the present application as follows:

Group I: Claims 1-9, drawn to a microorganism with L-methionine productivity;

Group II: Claim 10, drawn to a method of producing L-methionine; and

Group III: Claim 11, drawn to DNA encoding a homoserine transsuccinylase.

Applicants elect, with traverse, Group II, Claim 10, for further prosecution.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable

distinctness between the identified groups or shown that a burden exists in searching all the claims.

Applicants wish to point out that it appears that a typographical error occurred at page 2, paragraph 2 of the Official Action. It appears that Group II should be Group III.

Accordingly, the Office has characterized the inventions of Groups I and III as distinct. However, the Office has not provided sufficient reasons and/or examples to support this assertion. The Office has merely stated the conclusion. Accordingly, the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Accordingly, Applicants respectfully submit that the Restriction Requirement should be withdrawn.

The Office has characterized the inventions of Groups I and II as related as product and process of use. The Office states that the product as claimed can be used in a different process of using the product such as “producing methionine by chemical synthesis”. However, there is no evidence of record to show that the claimed product is useful as the Office has alleged. In addition, the Office has failed to show that its alleged use of the claimed product for “producing methionine by chemical synthesis” is materially different from what is claimed. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

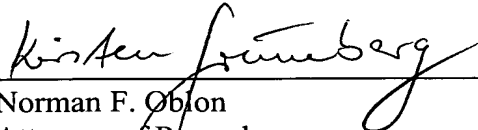
Further, Applicants respectfully traverse the Restriction Requirement on the grounds that the Office has not shown that a burden exist in searching all of the claims.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in  
condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
Norman F. Oblon  
Attorney of Record  
Registration No.: 24,618

Kirsten A. Grueneberg, Ph.D.  
Registration No.: 47,297



**22850**

PHONE: (703) 413-3000  
FAX: (703) 413-2220  
NFO:KAG:ekd  
I:\user\KGRUN\00101057.rrq.wpd